

(2020) 03 DEL CK 0083

In the Delhi High Court

Case No : Civil Writ Petition No. 9613, 9614 Of 2019

Parminder Singh

APPELLANT

Vs

M/S UK Nursing Home And Ors

RESPONDENT

Date of Decision : 03-03-2020

Acts Referred:

Citation : (2020) 03 DEL CK 0083

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Talwant Singh, J

Bench : Division Bench

Advocate : Jatin Sharma, Ashish Kothari, Devrang Gautam, Mansi Vaid, Gautam Narayan, Dacchita Shahi, Shivani Vij, Rajan Sabharwal, Vikas Dutt, Naval Kishor

Final Decision : Disposed Of

Judgement

D.N. Patel, CJ

1. These Public Interest Litigations have been preferred with the following prayers:-

â??(a) issue a Writ of Mandamus, a Writ in the nature of Mandamus and/or any other appropriate writ, order and direction ordering

and/or directing the Respondent no. 1 to ensure that fire safety and life safety measures in the premises of the Respondents no.1 is in

accordance with the requirements of the national building code of India, 2016 as amended, and other existing local laws;

b) issue a Writ of 'Mandamus, a writ in the nature of Mandamus and/or any other appropriate writ, order and direction ordering and/or

directing the Respondent no. 7 to seal the premises of the Respondents no.1 forthwith who has carrying illegally the hospital/ nursing home

business and violated the fire safety and life safety measures in building;

c) to issue a Writ in the nature of Mandamus and/or directing the Respondents' no. 2 to 7 for developing an "Audit Mechanism" so that

quarterly or 'an yearly audit can be conducted over the existing buildings in Delhi and NCR in regard to maintenance of updated status of

the building of public access, shopping complexes, malls, banquet Halls, Schools, educational institutions. Hospitals and nursing home etc.;

d) to issue a Writ in the nature of Mandamus and/or other appropriate writ, order and direction ordering and/or directing the respondents

to implement the third party audit mechanism of the high rise building of Delhi and NCR after completion of the construction work and seal

the entire constructed buildings which violated the building bye laws/ norms and supported the illegal construction of buildings of hospitals,

nursing homes etc. and carryout an investigation about granting sanction/ permission or 'issuance of NOC in the said properties by the

authorities concerned formed in this regard;

e) to issue a Writ in the nature of Mandamus and/or any other appropriate writ, order and direction ordering and/or directing the ordering

directing the respondents to fix the liability upon the erring officials, developer and owners of the such buildings, hospitals or nursing

homes etc. for the appropriate compensation to the victims in view of the judgment of the Hon'ble Supreme Court of India in the case of

Nila Behera (Smt.).vs. .State of Orissa" reported in 1993 (2) see 746 this Hon'ble court held".... acclaimed public law for compensation for

contravention of rights and fundamental rights and freedoms is an acknowledged remedy for enforcement and protection of such right...." ;

f) to issue a Writ in the nature of Mandamus and/or any other appropriate writ, order and direction to the respondents that no completion

certificate or occupation certificate should be issued for any building of hospital or nursing home etc unless the developer obtains

certificates from the concerned authorities to the effect that the building of hospital or nursing homes etc has been constructed in

accordance with the requirements of the National Building Code of India, 2016;

g) to issue a Writ in the nature of 'Mandamus' and/or any other appropriate writ, order and direction to the respondents no. 7 to seal the

entire buildings/business premises of the respondent no.1 or the hospitals,

nursing homes etc. and also to cancel the registration certificate, which have violated the basic norms of obtaining N.O.C. from the fire department;

h) to issue a Writ in the nature of Mandamus and/or any other appropriate writ, order and direction to the respondents no. 2 to 7 to make

appropriate Fire insurance coverage and to be made it mandatory for all Shopping Complexes, business premises, factories, hospitals,

nursing homes, Buildings, Malls, restaurants, banquets and schools etc.;

i) to issue a Writ of Mandamus, a Writ in the nature of Mandamus and/or any other appropriate writ, order and direction to the respondents

to take appropriate legal actions against the violators if anyone caught of violating these must needed rules and regulations on fire safety

and building construction during checking, then rather penalizing them, their license must be cancelled temporarily or permanently on the

basis of level of violation.

j) Such other or further awards may kindly be passed and relief granted in favour of welfare of general public at large and against the

Respondents as the Hon'ble Court may deem fit and proper under the circumstances of the case.

k) That the Petitioner has the means to pay the cost, if any, imposed by this Hon'ble Court and on an undertaking to the court in that

respect.â??

2. Having heard learned counsel for both the sides and looking into the facts and circumstances of the case, it appears that the non observation of fire

safety norms by the concerned authorities for the buildings in question are highlighted in these writ petitions.

3. Learned counsel for respondent No.1 has filed a detailed counter affidavit in W.P.(C) No. 9613/2019. Similarly, respondent No.1 has also filed a

counter affidavit in W.P.(C) 9614/2019. Respondents No. 4, 5 and 6 have also filed counter affidavit in W.P.(C) 9613/2019 as well as in W.P.(C)

9614/2019.

4. Looking to these counter affidavits it appears that the respondents have now started taking actions for violation of the aforesaid fire safety norms in

the building in questions. Show cause notices have been given by the respondents to the owners/occupiers of the premises in question, specifically

Nursing Home. The Committee has also been constituted by Delhi Government and it is assured by the counsel for respondent No.1 that whenever

there is a violation of the fire safety norms, action shall be initiated in accordance with law, rules, regulations and Government policies applicable to the

facts of the case.

9. In view of the above, we see no reason to further monitor this case. The respondents shall continue to take action for any violation of the fire safety

norms by the owners/occupiers in accordance with law, Rules and regulations and Government policies to the facts of the case after giving adequate

opportunity of being heard to the owners/occupiers.

10. With these observations, these writ petitions stand disposed of.